



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 16, 2010

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2010-14096

Dear Ms. Lentz:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 393924.

The Williamson County Sheriff's Office (the "sheriff") received a request for all incident reports concerning two named individuals, including the report related to a specified incident. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides, in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution. Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a governmental body must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. Instead, the governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. *See* Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor). The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. *See* Open Records Decision No. 409 at 2 (1984) (construing statutory predecessor).

You state the submitted information relates to a pending criminal investigation. However, we note the submitted report involves an allegation of aggravated assault that occurred on October 3, 2004. The statute of limitations for this offense is three years. *See* Pen. Code § 22.02(b) (aggravated assault is felony of second degree); Crim. Proc. Code art. 12.01(7) (providing an indictment or information on felony not listed in articles 12.01(1)-(6) may be presented within three years from the date of the commission of the offense, and not afterward). More than three years have elapsed since October 3, 2004. You have not informed this office that a prosecution of this case was pending when the sheriff received this request for information. Furthermore, you have not otherwise explained how release of the information at issue would interfere with law enforcement or crime prevention. We therefore conclude that sections 552.108(a)(1) and 552.108(b)(1) are not applicable to the submitted information, and it may not be withheld on these bases.

We note the information includes Texas driver's license numbers that are subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit. Gov't Code § 552.130(a)(1). Accordingly, the sheriff must withhold the Texas driver's

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

license numbers we have marked under section 552.130.<sup>2</sup> The remaining information must be released.<sup>3</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 393924

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note Open Records Decision No. 684 (2009) authorizes a governmental body to redact a Texas driver's license number under section 552.130 of the Government Code without the necessity of requesting an attorney general decision. The remaining information contains the driver's license number of the requestor's client. The requestor has a special right of access, however, to her client's Texas driver's license number, which would otherwise be confidential with regard to the general public. See Gov't Code § 552.023(a). Accordingly, if the sheriff receives another request for this information from an individual other than the requestor or the requestor's client, the sheriff is authorized to withhold the requestor's client's Texas driver's license number under section 552.130 without the necessity of requesting an attorney general decision.

<sup>3</sup>We note the remaining information also contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).